

Chapter 5 - Relocation Assistance (Continued)

003 PAYMENTS FOR MOVING AND RELATED EXPENSES.

003.01 PAYMENT FOR ACTUAL REASONABLE MOVING AND RELATED EXPENSES - RESIDENTIAL MOVES. Any displaced owner-occupant or tenant of a dwelling who qualifies as a displaced person (defined in Section 001.02G) is entitled to payment of his or her actual moving and related expenses, as the Agency determines to be reasonable and necessary, including expenses for:

003.01A Transportation of the displaced person and personal property. Transportation costs for a distance beyond 50 miles are not eligible, unless the Agency determines that relocation beyond 50 miles is justified.

003.01B Packing, crating, unpacking, and uncrating of the personal property.

003.01C Disconnecting, dismantling, removing, reassembling, and reinstalling relocated household appliances, and other personal property.

003.01D Storage of the personal property for a period not to exceed 12 months, unless the Agency determines that a longer period is necessary.

003.01E Insurance for the replacement value of the property in connection with the move and necessary storage.

003.01F The replacement value of property lost, stolen, or damaged in the process of moving (not through the fault or negligence of the displaced person, his or her agent, or employee) where insurance covering such loss, theft, or damage is not reasonably available.

003.01G Other moving-related expenses that are not listed as ineligible under Section 003.05, as the Agency determines to be reasonable and necessary.

003.02 FIXED PAYMENT FOR MOVING EXPENSES - RESIDENTIAL MOVES.

003.02A Any person displaced from a dwelling or a seasonal residence is entitled to receive an expense and dislocation allowance as an alternative to a payment for actual moving and related expenses under Section 003.01.

003.02B Section 76-1229 of the Relocation Assistance Act provides that the Director of the lead agency (Nebraska Department of Roads) shall take into consideration the reasonable expenses associated with relocation and the regulations adopted and promulgated by the United States Department of Transportation under the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, P.L. 91-646, as amended.

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003.02C This allowance will be determined according to the applicable schedule developed by the Director of the lead agency (Nebraska Department of Roads) and approved by the Federal Highway Administration.

003.02D The following exceptions and limitations apply to this schedule:

003.02D1 The expense and dislocation allowance to a person with minimal personal possessions who is in occupancy of a dormitory style room shared by two or more other unrelated persons or a person whose residential move is performed by an Agency at no cost to the person shall be limited to \$50.

003.02D2 An occupant will be paid on an actual cost basis for moving a mobile home from the displacement site. In addition, a reasonable payment to the occupant for packing and securing personal property for the move may be paid at the Agency's discretion.

003.02D3 An occupant who moves from a mobile home may be paid for the removal of personal property from the mobile home in accordance with the moving and dislocation allowance payment schedule.

003.02E The schedule is based on the number of rooms of furniture owned by a displaced individual or family. In the interest of fairness and accuracy, and to encourage the use of the schedule (and thereby simplify the computation and payment of moving expenses), an agency should increase the room count for purposes of applying the schedule if the amount of possessions in a single room or space actually constitute more than the normal contents of one room of furniture or other personal property. For example, a basement may count as two rooms if the equivalent of two rooms worth of possessions is located in the basement. In addition, an agency may elect to pay for items stored outside the dwelling unit by adding the appropriate number of rooms.

003.02F The actual Fixed Residential Moving Cost Schedule will be printed in the Federal Register. For further information on the actual room amounts contact the Nebraska Department of Roads, Relocation Office, PO Box 94759, Lincoln NE 68509-4759 or call at (402)479-4713 or (800)764-0422.

003.03 PAYMENT FOR ACTUAL REASONABLE MOVING AND RELATED EXPENSES - NONRESIDENTIAL MOVES.

003.03A ELIGIBLE COSTS. Any business or farm operation which qualifies as a displaced person (defined in Section 001.02G) is entitled to payment for such actual moving and related expenses, as the Agency determines to be reasonable and necessary, including expenses for:

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003.03A1 Transportation of personal property. Transportation costs for a distance beyond 50 miles are not eligible, unless the Agency determines that relocation beyond 50 miles is justified.

003.03A2 Packing, crating, unpacking, and uncrating of the personal property.

003.03A3 Disconnecting, dismantling, removing, reassembling, and reinstalling relocated machinery, equipment, and other personal property, including substitute personal property described in Section 003.03A12. This includes connection to utilities available nearby. It also includes modifications to the personal property necessary to adapt it to the replacement structure, the replacement site, or the utilities at the replacement site, and modifications necessary to adapt the utilities at the replacement site to the personal property. (Expenses for providing utilities from the right-of-way to the building or improvement are excluded.)

003.03A4 Storage of the personal property for a period not to exceed 12 months, unless the Agency determines that a longer period is necessary.

003.03A5 Insurance for the replacement value of the personal property in connection with the move and necessary storage.

003.03A6 Any license, permit, or certification required of the displaced person at the replacement location. However, the payment may be based on the remaining useful life of the existing license, permit, or certification.

003.03A7 The replacement value of property lost, stolen, or damaged in the process of moving (not through the fault or negligence of the displaced person, his or her agent, or employee) where insurance covering such loss, theft, or damage is not reasonably available.

003.03A8 Professional services necessary for:

003.03A8a Planning the move of the personal property,

003.03A8b Moving the personal property, and

003.03A8c Installing the relocated personal property at the replacement location.

003.03A9 Relettering signs and replacing stationery on hand at the time of displacement that are made obsolete as a result of the move.

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003.03A10 Actual direct loss of tangible personal property incurred as a result of moving or discontinuing the business or farm operation. The payment shall consist of the lesser of:

003.03A10a The fair market value of the item for continued use at the displacement site, less the proceeds from its sale. (To be eligible for payment, the claimant must make a good faith effort to sell the personal property, unless the Agency determines that such effort is not necessary. When payment for property loss is claimed for goods held for sale, the fair market value shall be based on the cost of the goods to the business, not the potential selling price.); or

003.03A10b The estimated cost of moving the item, but with no allowance for storage. (If the business or farm operation is discontinued, the estimated cost shall be based on a moving distance of 50 miles.)

003.03A11 The reasonable cost incurred in attempting to sell an item that is not to be relocated.

003.03A12 Purchase of substitute personal property. If an item of personal property which is used as part of a business or farm operation is not moved but is promptly replaced with a substitute item that performs a comparable function at the replacement site, the displaced person is entitled to payment of the lesser of:

003.03A12a The cost of the substitute item, including installation costs at the replacement site, minus any proceeds from the sale or trade-in of the replaced item; or

003.03A12b The estimated cost of moving and reinstalling the replaced item but with no allowance for storage. At the Agency's discretion, the estimated cost for a low cost or uncomplicated move may be based on a single bid or estimate.

003.03A13 Searching for a replacement location. A displaced business or farm operation is entitled to reimbursement for actual expenses, not to exceed \$1,000, as the Agency determines to be reasonable, which are incurred in searching for a replacement location, including:

003.03A13a Transportation.

003.03A13b Meals and lodging away from home.

003.03A13c Time spent searching, based on reasonable salary or earnings.

003.03A13d Fees paid to a real estate agent or broker to locate a replacement site, exclusive of any fees or commissions related to the purchase of such site.

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003.03A14 Other moving-related expenses that are not listed as ineligible under Section 003.05, as the Agency determines to be reasonable and necessary.

003.03B NOTIFICATION AND INSPECTION. The following requirements apply to payments under Section 003.03:

003.03B1 The Agency shall inform the displaced person, in writing, of the requirements of Sections 003.03B2 and 003.03B3 as soon as possible after the initiation of negotiations. This information may be included in the relocation information provided to the displaced person as set forth in Section 002.03.

003.03B2 The displaced person must provide the Agency reasonable advance written notice of the approximate date of the start of the move or disposition of the personal property and a list of the items to be moved. However, the Agency may waive this notice requirement after documenting its file accordingly.

003.03B3 The displaced person must permit the Agency to make reasonable and timely inspections of the personal property at both the displacement and replacement sites and to monitor the move.

003.03C SELF MOVES. If the displaced person elects to take full responsibility for the move of the business or farm operation, the Agency may make a payment for the persons moving expenses in an amount not to exceed the lower of two acceptable bids or estimates obtained by the Agency or prepared by qualified staff. At the Agency's discretion, a payment for a low cost or uncomplicated move may be based on a single bid or estimate. Low cost or uncomplicated moves are those with amounts of \$5,000 or less.

003.03D TRANSFER OF OWNERSHIP. Upon request and in accordance with applicable law, the claimant shall transfer to the Agency ownership of any personal property that has not been moved, sold, or traded in.

003.03E ADVERTISING SIGNS. The amount of a payment for direct loss of an advertising sign which is personal property shall be the lesser of:

003.03E1 The depreciated reproduction cost of the sign, as determined by the Agency, less the proceeds from its sale; or

003.03E2 The estimated cost of moving the sign, but with no allowance for storage.

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003.04 REESTABLISHMENT EXPENSES - NONRESIDENTIAL MOVES. In addition to the payments available under Section 003.03, a small business, as defined in Section 001.02S, farm or nonprofit organization is entitled to receive a payment, not to exceed \$10,000, for eligible expenses actually incurred in relocating and reestablishing such small business, farm or nonprofit organization at a replacement site.

003.04A ELIGIBLE EXPENSES. Reestablishment expenses must be reasonable and necessary, as determined by the Agency. They may include, but are not limited to, the following:

003.04A1 Repairs or improvements to the replacement real property as required by federal, state or local law, code or ordinance.

003.04A2 Modifications to the replacement property to accommodate the business operation or make replacement structures suitable for conducting the business.

003.04A3 Construction and installation costs for exterior signing to advertise the business.

003.04A4 Provision of utilities from right-of-way to improvements on the replacement site.

003.04A5 Redecoration or replacement of soiled or worn surfaces at the replacement site, such as paint, panelling, or carpeting.

003.04A6 Licenses, fees and permits when not paid as part of moving expenses.

003.04A7 Feasibility surveys, soil testing and marketing studies.

003.04A8 Advertisement of replacement location.

003.04A9 Professional services in connection with the purchase or lease of a replacement site.

003.04A10 Estimated increased costs of operation during the first two years at the replacement site for such items as:

003.04A10a Lease or rental charges,

003.04A10b Personal or real property taxes,

003.04A10c Insurance premiums, and

003.04A10d Utility charges, excluding impact fees.

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003.04A11 Impact fees or one-time assessments for anticipated heavy utility usage.

003.04A12 Other items that the Agency considers essential to the reestablishment of the business.

003.04B INELIGIBLE EXPENSES. The following is a nonexclusive listing of reestablishment expenditures not considered to be reasonable, necessary, or otherwise eligible.

003.04B1 Purchase of capital assets, such as, office furniture, filing cabinets, machinery, or trade fixtures.

003.04B2 Purchase of manufacturing materials, production supplies, product inventory, or other items used in the normal course of the business operation.

003.04B3 Interest on money borrowed to make the move or purchase the replacement property.

003.04B4 Payment to a part-time business in the home which does not contribute materially to the household income.

003.05 INELIGIBLE MOVING AND RELATED EXPENSES. A displaced person is not entitled to payment for:

003.05A The cost of moving any structure or other real property improvement in which the displaced person reserved ownership. However, this rule does not preclude the computation under Section 004.01C4c, or

003.05B Interest on a loan to cover moving expenses; or

003.05C Loss of goodwill; or

003.05D Loss of profits; or

003.05E Loss of trained employees; or

003.05F Any additional operating expenses of a business or farm operation incurred because of operating in a new location except as provided in Section 003.04A10; or

003.05G Personal injury; or

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003.05H Any legal fee or other cost for preparing a claim for a relocation payment or for representing the claimant before the Agency; or

003.05I Expenses for searching for a replacement dwelling; or

003.05J Physical changes to the real property at the replacement location of a business or farm operation except as provided in Sections 003.03A3 and 003.04A; or

003.05K Costs for storage of personal property on real property already owned or leased by the displaced person.

003.06 FIXED PAYMENT FOR MOVING EXPENSES - NONRESIDENTIAL MOVES.

003.06A BUSINESS. A displaced business may be eligible to choose a fixed payment in lieu of the payments for actual moving and related expenses, and actual reasonable reestablishment expenses provided by Sections 003.03 and 003.04. Such fixed payment, except for payment to a nonprofit organization, shall equal the average annual net earnings of the business, as computed in accordance with Section 003.06E, but not less than \$1,000 nor more than \$20,000. The displaced business is eligible for the payment if the Agency determines that:

003.06A1 The business owns or rents personal property which must be moved in connection with such displacement and for which an expense would be incurred in such move; and the business vacates or relocates from its displacement site.

003.06A2 The business cannot be relocated without a substantial loss of its existing patronage (clientele or net earnings). A business is assumed to meet this test unless the Agency determines that it will not suffer a substantial loss of its existing patronage; and

003.06A3 The business is not part of a commercial enterprise having more than three other entities which are not being acquired by the Agency, and which are under the same ownership and engaged in the same or similar business activities.

003.06A4 The business is not operated at a displacement dwelling solely for the purpose of renting such dwelling to others.

003.06A5 The business is not operated at the displacement site solely for the purpose of renting the site to others.

003.06A6 The business contributed materially to the income of the displaced person during the two taxable years prior to displacement (see Section 001.02E).

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003.06B DETERMINING THE NUMBER OF BUSINESSES. In determining whether two or more displaced legal entities constitute a single business which is entitled to only one fixed payment, all pertinent factors shall be considered, including the extent to which:

003.06B1 The same premises and equipment are shared;

003.06B2 Substantially identical or interrelated business functions are carried out and business and financial affairs are commingled;

003.06B3 The entities are held out to the public, and to those customarily dealing with them, as one business; and

003.06B4 The same person or closely related persons own, control, or manage the affairs of the entities.

003.06C FARM OPERATION. A displaced farm operation (defined in Section 001.02J) may choose a fixed payment, in lieu of the payments for actual moving and related expenses and actual reasonable reestablishment expenses, in an amount equal to its average annual net earnings as computed in accordance with Section 003.06E, but not less than \$1,000 nor more than \$20,000. In the case of a partial acquisition of land which was a farm operation before the acquisition, the fixed payment shall be made only if the Agency determines that:

003.06C1 The acquisition of part of the land caused the operator to be displaced from the farm operation on the remaining land; or

003.06C2 The partial acquisition caused a substantial change in the nature of the farm operation.

003.06D NONPROFIT ORGANIZATION. A displaced nonprofit organization may choose a fixed payment of \$1,000 to \$20,000, in lieu of the payments for actual moving and related expenses and actual reasonable reestablishment expenses, if the Agency determines that it cannot be relocated without a substantial loss of existing patronage (membership or clientele). A nonprofit organization is assumed to meet this test, unless the Agency demonstrates otherwise. Any payment in excess of \$1,000 must be supported with financial statements for the two 12-month periods prior to the acquisition. The amount to be used for the payment is the average of two years annual gross revenues less administrative expenses. (See Appendix A, Section 003.06D.)

003.06E AVERAGE ANNUAL NET EARNINGS OF A BUSINESS OR FARM OPERATION. The average annual net earnings of a business or farm operation are one-half of its net earnings before federal, state,

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and local income taxes during the two taxable years immediately prior to the taxable year in which it was displaced. If the business or farm was not in operation for the full two taxable years prior to displacement, net earnings shall be based on the actual period of operation at the displacement site during the two taxable years prior to displacement, projected to an annual rate. Average annual net earnings may be based upon a different period of time when the Agency determines it to be more equitable. Net earnings include any compensation obtained from the business or farm operation by its owner, the owners spouse, and dependents. The displaced person shall furnish the Agency proof of net earnings through income tax returns, certified financial statements, or other reasonable evidence which the Agency determines is satisfactory.

ANNOTATION

**Title 410
Chapter 5
Section 003**

**Enabling Legislation
76-1214 through 76-1242
Neb. Rev. Stat.**